

**DURHAM, NORTH CAROLINA
MONDAY, DECEMBER 18, 2006
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Mayor Bell called the meeting to order and requested a moment of silent meditation and the Pledge of Allegiance led by Lisa Townsend and Council Member Clement.

Council Member Woodard read a Resolution regarding the “Bill of Rights” and presented it to Joan Walsh of the Durham Bill of Rights Defense Committee.

China Townsend thanked Mayor Bell and Council Member Clement for their support of McDougald Terrace.

The following announcements were made and/or events were attended by Council: Mayor Bell attended the First Annual Awards Program at McDougald Terrace; Mayor Pro Tempore Cole-McFadden attended the National League of Cities Conference and commented on the Mayor’s Hispanic/Latino Initiative; commented on an holiday event she attended at the Senior Center; Council Member Woodard commented on the Durham Arts Council 120th Anniversary of the building and recognized individuals for their support of this event; thanked the Parks and Recreation Department for hosting the Senior Holiday Party; commented on the Annual Peace Toys Exchange at Lyons Park; grand opening of Fire Station 16; and the Human Relations Department for sponsoring the service for victims of domestic violence; Council Member Catotti made comments on the groundbreaking for the Performing Arts Center and the State of the Economy Breakfast; Council Member Clement acknowledged the master chef of Angus Barn who won the recent Iron Chef competition; and Council Member Brown also acknowledged the groundbreaking of the Performing Arts Center.

Mayor Bell reminded the City Council that the Work Session scheduled for Thursday, December 21, 2006 will be held on Wednesday, December 20th at 1:00 p.m.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager asked that GBA Item #20 [Police Department’s Long Range Master Facility Plan] be referred back to the administration and GBA #44 [Durham Police Department 2006 Third Quarterly Report] be heard after the vote on the Consent Agenda.

MOTION by Council Member Stith seconded by Council Member Catotti to accept the City Manager’s priority items was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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City Clerk Gray administered the oath of office to Paul Anthony Arena who was recently appointed to the Durham Board of Adjustment.

There were no priority items from the City Attorney.

Mayor Bell asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. Consent Item 1 [2007 Legislative Program Outline] was pulled by a citizen.

MOTION by Council Member Clement seconded by Council Member Catotti to approve the Consent Agenda as printed on the agenda with the exception of Consent Item #1 [2007 Legislative Program Outline] was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

Subject: Cable TV Advisory Board - Appointment

MOTION by Council Member Clement seconded by Council Member Catotti to appoint Jamise R. Bell to fill one (1) vacancy on the Cable TV Advisory Board with the term to expire on October 31, 2008 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Durham Housing Authority Board of Commissioners - Appointment

MOTION by Council Member Clement seconded by Council Member Catotti to appoint Rochelle Newton-Brown to fill one (1) vacancy on the Durham Housing Authority Board of Commissioners with a term to expire on September 28, 2011 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Firemen's Relief Fund Board of Trustees – Receipt and Acceptance of an Application

MOTION by Council Member Clement seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Firemen's Relief Fund Board of Trustees with the term to expire on January 1, 2009 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Housing Appeals Board – Receipt and Acceptance of an Application

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MOTION by Council Member Clement seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Housing Appeals Board for an Alternate Member to represent Residence Owner with the term to expire June 30, 2009 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Raleigh-Durham Airport Authority – Receipt and Acceptance of an Application

MOTION by Council Member Clement seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Raleigh-Durham Airport Authority with the term to expire on January 1, 2009 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Workforce Development Board - Receipt and Acceptance of Applications and Appointments

MOTION by Council Member Clement seconded by Council Member Catotti to receive and accept applications and to appoint citizens as listed below to fill two (2) vacancies on the Workforce Development Board to represent Private Sector as recommended by the Durham Chamber of Commerce and the Workforce Development Board with terms to expire on June 30 2008 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Carryover Budget Amendment 2006-07

MOTION by Council Member Clement seconded by Council Member Catotti to adopt an Ordinance Amending the 2006-07 City of Durham Budget Ordinance, the same being Ordinance 13284; and

To adopt a resolution establishing FY 2006-07 financial plans for internal service funds, superseding Resolution 9367 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13358
Resolution #9420

Subject: Construction Loan and Grant Agreement with UDI Community Development Corporation

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MOTION by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to determine and find that construction loans for this housing project are not otherwise available, wholly or in part, from public or private lenders, upon equivalent terms and conditions;

To authorize the City Manager to execute a Construction Loan Agreement and associated legal documents with UDI/CDC which will provide up to \$50,000.00 per unit for the construction of new housing at zero percent interest, up to a maximum aggregate total of \$150,000.00;

To authorize the City Manager to execute a Grant Agreement with UDI/CDC in the amount of \$9,000.00 to provide additional landscaping in the cul-de-sac area at the South end of Glendale Avenue;

To authorize the City Manager to expend \$159,000.00 in 1996 Housing Bond program income; and

To authorize the City Manager to modify the agreement and other related documents before execution provided that the modifications do not increase the dollar amount of the agreement and do not lessen the obligations of the developer was approved at 7:38 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Abstention: Mayor Bell.

Subject: Amendment to the City of Durham Employment and Training 2005-2007 Grant Project Ordinance #13325

MOTION by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to accept the City of Durham North Carolina and the State of North Carolina "Employment and Training" Grant by executing the grant documents; and

To adopt the City of Durham North Carolina and the State of North Carolina "Employment and Training" Grant Project Ordinance FY 2005-2007, superseding Grant Project Ordinance #13325 for a new amount of \$2,036,774.00 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13359

Subject: Business Loan Report October 2006

MOTION by Council Member Clement seconded by Council Member Catotti to accept the Business Loan Report for October 2006 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti,

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Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Second Amendment to the Contract - Sales and Service Training Center At Northgate

MOTION by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to execute an amendment to the Workforce Investment Act Contract with the Sales and Service Training Center to extend the contract deadline from November 30, 2006 to May 31, 2007; and

To make changes as may be needed so long as they do not increase the dollar amount of the contract nor alter the completion date of the contract was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Interlocal Agreement for Results Based Accountability

MOTION by Council Member Clement seconded by Council Member Catotti to adopt the Durham City-County Interlocal Agreement Regarding the Community-Wide Results Based Accountability Project was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Major Site Plan – Galway Glenn (D06-211)

MOTION by Council Member Clement seconded by Council Member Catotti to approve a major site plan for “Galway Glenn,” submitted by Coulter Jewell Thames, P.A., on behalf of Williams Construction, for a 110 unit townhome development on a 13.32 acre site zoned RS-M (D), property located north of Whitfield Road, east and south of Finley and west of Morreene Road was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Amendment to Grant Project Ordinance #13303 – N. C. Department of Crime Control and Public Safety

MOTION by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to accept the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, Durham Cybercrime Grant by executing the grant documents; and

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To adopt the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, Durham Cybercrime Grant Project Ordinance, superseding Grant Project Ordinance #13303 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13360

Subject: Lake Michie Dam Improvements Change Order – Crowder Construction Company

MOTION by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to execute a change order in the contract with Crowder Construction Company for the Lake Michie Dam Improvements Project in the amount of \$290,062.50 for necessary additional repairs to the Lake Michie Dam spillway was approved at 7:38 p.m. by the vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Agreement for Engineering Services for Water Treatment Plant Improvements – Hazen and Sawyer

MOTION by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to execute a contract with Hazen and Sawyer, P.C. for engineering services in an amount not to exceed \$587,620.00 for the Water Treatment Plant Improvements Project; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Major Site Plan – Hope Valley Commons

MOTION by Council Member Clement seconded by Council Member Catotti to approve a major site plan for “Hope Valley Commons,” submitted by Horvath Associates, P.A., on behalf of Hughes-Baran Development, LLC and Little Bear, LLC, for a 156,061 square foot commercial center comprised of 12 retail/service buildings with 765 parking spaces on 21.82 acres, zoned CC (D) and F/J-B, site is located at the southeastern corner of NC 751 and NC 54 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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Subject: Durham Convention and Visitors Bureau – City Council Appointment

MOTION by Council Member Clement seconded by Council Member Catotti to re-appoint Mayor Pro Tempore Cora Cole-McFadden to the Durham Convention and Visitors Bureau with term expiring December 31, 2008 was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Resolution Memorializing Benjamin S. "Ben" Ruffin

MOTION by Council Member Clement seconded by Council Member Catotti to adopt a Resolution Memorializing Benjamin S. "Ben" Ruffin was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9421

Subject: Durham Police Department 2006 Third Quarterly Crime Report

To receive the 2006 Third Quarterly Crime Report.

Deputy Police Chief Ron Hodge presented a power point presentation on the third quarter 2006 crime report. The presentation provided highlights of the 3rd quarter as well as an analysis of the 3rd quarter and year-to-date crime statistics for the past four years, and information about clearance rates.

- Summary of YTD 3rd quarter report (January – September 2006)
- Sworn Staffing and Non-Sworn Staffing
- All Index Crimes/All Index Violent Crimes
- All Index Property Crime
- Percent of Cases Cleared
- Firearms Seizures

Victoria Peterson made comments on the number of citizens throughout the United States being involved in the criminal justice system. She stated the city should focus its efforts on rehabilitation instead of building a theater and parking decks.

Council Member Brown reminded the administration that he would prefer receiving the report before the presentation is made.

No action taken on this item.

Note: The City Council disposed of the following agenda items at the 12/7/06 Work Session.

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Subject: Naming Rights Agreement for Atrium of Durham Performing Arts Center – Blue Cross and Blue Shield

To authorize the City Manager to execute the “Letter of Intent: Naming Rights Sponsorship of the Atrium at the Durham Performing Arts Center” in the amount of \$1,000,000 to be paid by Blue Cross and Blue Shield of North Carolina;

To enter into contract negotiations to finalize the agreement; and

To make modifications to the Letter of Intent so long as the modifications do not increase the dollar amount or decrease the scope of services provided to the City. **(This item was approved at the 12/7/06 Work Session with a vote of 5/0)**

Subject: City’s Gang Assessment Update

To receive an update on the City’s Gang Assessment. **(A presentation was received at the 12/7/06 Work Session)**

Subject: Durham-Orange Community Tennis Association – Anna Mercer-McLean

To receive comments from Anna Mercer-McLean regarding tennis court upgrades. **(Comments were received at the 12/7/06 Work Session)**

Subject: Fayetteville Street Planning Group – Larry Hester

To receive comments from Larry Hester regarding site plan submission. **(Comments were received at the 12/7/06 Work Session)**

Subject: Hope Valley Downs – Tisha Johnson

To receive comments from Tisha Johnson regarding the completion of Martin Luther King, Jr. road construction. **(Comments were received at the 12/7/06 Work Session)**

Subject: AHOD Worship Center – Ron Meadows

To receive comments from Ron Meadows regarding the need for parking spaces. **(Comments were received at the 12/7/06 Work Session)**

Subject: City Council Practices on Excused Absences

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To discuss City Council practices regarding excused absences. (This item was deferred to the December 20, 2006 Work Session)

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

Subject: Police Department's Long Range Master Facility Plan

To receive public comments on the Police Department's Long Range Master Facility Plan.

Father Jacek Orzechowski, of Immaculate Conception Church and member of Durham Can, addressed the council on a police substation they have been trying to staff and keep open for about a year with little success. He referenced a meeting with Police Chief Chalmers to discuss the issue of staffing for the immigrant police substation and they were told they would see the substation staffed in 90 days. He stated 290 days have gone by and the substation remains closed.

Also, he raised concern with the proposal of the closing of all the substations throughout the city.

Danita Stevens, a member of Durham CAN, spoke in support of the current substations and asked that the long range master facility plan be explored further. Also, Ms. Stevens stated the new police chief should be given an opportunity to review this plan and provide input and asked the City Council to further explore the implications of this plan before its approval.

Victoria Peterson suggested that a task force be established to create a long term plan for the police department. Also, she made comments on the Mecklenburg/Charlotte merged police and sheriff departments.

A resident of the latino community spoke on the number of crimes being committed against latinos and stated sometimes when they call the police for service they take a long time to come and at times they do not come at all.

City Manager Baker stated it would be awhile before this item comes back before the City Council. City Manager Baker stated they would not be moving forward with any plan until after the new police chief reviews the plan.

Mayor Bell closed the public hearing.

Mayor Bell stated where a particular neighborhood has had increased robberies he would be interested in receiving information on what has been done and what were the results.

At this time, Deputy Chief Hodge stated that the HOIST Program was still in existence and not being phased out.

Council Member Clement reiterated the need for the new police chief to review plans regarding the police department before any recommendations are made.

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Council Member Brown requested a status report from the administration on the substation referenced by Father Jacek Orzechowski.

Note: This item was referred back to the administration at the request of the City Manager.

Subject: Ordering Petitioned Improvement – Sewer Main and Sewer Outfall on Alman Drive from Randolph Road and Pickran Circle from Alman Drive

As this was the time and place set for the public hearing anyone interested was given the opportunity to be heard.

Sara Johnson spoke in support of this item.

No one spoke in opposition. The public hearing was closed by Mayor Bell.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive public comments, and

To adopt a resolution ordering Sewer Main and Sewer Outfall on Alman Drive from Randolph Road East to the North Property Line of Tax Map 458-7-3 and Pickran Circle from Alman Drive to the end of the cul-de-sac was approved at 9:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Ordering Petitioned Improvement – Sewer Main on Hillsborough Road from Brenrose Circle to Gate Hill Road

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

There being no one present to speak in support or against this item, the public hearing was declared closed by the Mayor.

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive public comments, and

To adopt a resolution ordering Sewer Main on Hillsborough Road (U.S. Hwy 70 West) from Brenrose Circle to Gate Hill Road was approved at 9:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Council Member Catotti requested staff provide an estimate on how many more of these petitions will come in with the prior assessment rate. She stated she was concerned particularly with people outside of the city limits.

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Subject: Confirmation of Assessment Roll – Sewer Main on Ardmore Drive

Lee Murphy of the Public Works Department made comments on the location of Ardmore Drive; Marywood Drive and Long Leaf Drive.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

There being no one present to speak in support or against this item, the public hearing was closed by the Mayor.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Ardmore Drive from the East Property Line of Tax Map 509-1-4 to the South Property Line of Tax Map 509-2-3B was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Confirmation of Assessment Roll – Sewer Main on Marywood Drive from Park Place

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

There being no one present to speak in support or against this item, the public hearing was closed by the Mayor.

MOTION by Council Member Stith seconded by Council Member Catotti to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Marywood Drive from Park Place to the East Property Line of Tax Map 773-1-5A was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Confirmation of Assessment Roll – Water Main on Long Leaf Drive from Pine Valley Drive

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

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There being no one present to speak in support or against this item, the public hearing was closed by the Mayor.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments; and

To adopt a resolution confirming the assessment roll for Water Main on Long Leaf Drive from Pine Valley Drive North to the North Property Line of Tax Map 825-1-39 was approved at 9:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Subject: Voluntary Annexation Petition Received by July 1, 2006 – Junction Road

Assistant City Manager Julie Brenman stated this voluntary annexation for Junction Road would provide a positive cash flow for the city.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

There being no one present to speak in support or against this item, the public hearing was closed by the Mayor.

FY 2007-04 - Junction Road

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments concerning the annexation of the Voluntary Annexation Area (Junction Road); and

To adopt an Ordinance annexing to the City of Durham” the Voluntary Annexation Area (Junction Road) in accordance with N.C. General Statute 160A-31; effective from and after December 31, 2006; and

To authorize the City Manager to pay the debt service of the Redwood Volunteer Fire Department was approved at 9:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13356

Subject: Zoning Map Change - 5200 Wake Forest Highway (Z06-15) – Applicant Sherron Road Ventures

To receive public comments on the zoning map change for the 5200 Wake Forest Highway (Z06-15);

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-15 out of CC(D) and placing same in and establishing same as CC(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Staff recommends approval, based on consistency with the Comprehensive Plan and the information contained within the staff report.

Planning Commission Recommendation and Vote: Approval, 7-6 on September 12, 2006, based on finding that the ordinance request is not consistent with the adopted Comprehensive Plan. However, should the governing body approve the pending plan amendment; the ordinance request will then be in compliance with the revised Comprehensive Plan. The Commission believes this request is reasonable and in the public interest in light of the information in the staff report and comments received during the public hearing.

[The site is located on 5200 and 5204 Wake Forest Highway, east of Sherron Road. PINs 0860-01-19-5874, -6550; 0861-03-10-7293]

City/County Planning Director Frank Duke acknowledged that he was in receipt of all the required certifications and notices for all the planning items on the agenda this evening.

City/County Planning Director Frank Duke stated only a small portion of this zoning request affects the city council which is a revision to a development plan on record that does not permit any external access points to the property to the east of the site that is in the city. He stated the Board of County Commissioners has approved a plan amendment to designate property immediately to the east of this site for commercial development and the other component of the zoning case going before the Board of Commissioners does provide for a development plan for commercial development on that site but that cannot be done unless the city council revises the existing development plan of record to permit the cross access modification to the development plan. He noted there is no change in zoning just a change in the development plan.

Mayor Bell opened the public hearing.

Ron Horvath, the applicant, spoke in support of this item.

No one spoke in opposition. Mayor Bell closed the public hearing.

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MOTION by Council Member Woodard seconded by Council Member Stith to receive public comments on the zoning map change for the 5200 Wake Forest Highway (Z06-15);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-15 out of CC(D) and placing same in and establishing same as CC(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13361

Subject: Initial Zoning Map Change – Barbee Chapel Road Assemblage (Z06-18A)

City/County Planning Director recommended approval of this initial zoning map change.

Mayor Bell opened the public hearing.

No one spoke in support or in opposition to this item. Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments on the initial zoning map change for Barbee Chapel Road Assemblage (Z06-18A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 2.000, PDR 3.730, and PDR 6.024; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

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[The site is located on the south side of Barbee Chapel Road intersecting with Downing Creek Parkway. PINs: 9797-02-98-4210 and 9797-02-99-3627]

Ordinance #13362

Subject: Initial Zoning Map Change – Barbee Chapel Road Multi-Family (Z06-49A)

City/County Planning Director recommended approval of this initial zoning map change.

Mayor Bell opened the public hearing.

No one spoke in support or in opposition to this item. Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments on the initial zoning map change for Barbee Chapel Road Multi-Family (Z06-49A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish RR; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:12 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

[The site is located on the north side of Barbee Chapel Road between Downing Creek Parkway and Hwy 54. PINs: 9798-04-81-6144, -80-5929]

Ordinance #13363

Subject: Initial Zoning Map Change – Upchurch Property (Z06-60A)

City/County Planning Director Frank Duke recommended approval of this initial zoning map change.

Mayor Bell opened the public hearing.

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No one spoke in support or in opposition to this item. Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments on the initial zoning map change for Upchurch Property (Z06-60A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish OI (D); MTC, F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

[The site is located on the northeast quadrant of the intersection at Leigh Farm Road and NC 54, just east of I-40. PIN: 0708-02-68-8025]

Ordinance #13364

Subject: Zoning Map Change – Cook Road Townhomes (Z06-17) Applicant – D Eight Corporation

To receive public comments on the zoning map change for Cook Road Townhomes (Z06-17);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-17 out of RS-20 and placing same in and establishing same as PDR 8.000; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public

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interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Denial, 8-5 on August 8, 2006. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. The Commission does not believe this request is reasonable or in the public interest in light of the information in the staff report and comments received during the public hearing. The Commission recommends denial based on increased traffic congestion, inconsistency with neighboring land uses, impacts on sensitive environmental areas and inadequate provision of facilities in the development plan.

[The site is located on the east side of Cook Road, south of Martin Luther King, Jr. Parkway and north of Brown Street. PIN: 0729-01-38-0483]

City/County Planning Director Frank Duke stated this item was first considered on October 16, 2006 and the item was continued to tonight's meeting. He stated there has been some significant changes to this item. He noted the applicant has added a series of additional committed elements (7) which have been reviewed by staff. Mr. Duke referenced the following committed elements: #3 - dealing with 20' undisturbed buffer along the southern property line; #4 - a commitment that the useable open space will be in the form of a tot lot with benches and gazebo to be located on the eastern side of the intersection of roads B & C; #5 - provide an all-weather walking trail within the existing power line easement creating a looped walkway with road B; #6 - they will install sidewalks along both sides of roads B & C as shown on the development plan; #7 - they will commit the maximum number of dwelling units will be no more than 60; and the final of the new committed elements which is item #8 - to provide \$500 as donation per dwelling unit at the time of building permit for use by Durham Public Schools. For clarification, Mr. Duke stated there are only six new committed elements instead of seven. Mr. Duke stated the developer has submitted a revised development plan which conforms to all ordinance requirements and does reflect the new committed elements. Mr. Duke stated the staff is recommending approval of this item and the request is now consistent with the comprehensive plan.

Mayor Bell opened the public hearing.

Attorney Ken Spaulding, representing the applicant, commented on the new plan before the City Council and requested approval.

George Stanziale commented on the reduction density [reduction in the number of units from 70 to 60] the revised development plan along with the new committed elements and the reduction in traffic.

No one spoke in opposition to this request. Mayor Bell closed the public hearing.

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MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments on the zoning map change for Cook Road Townhomes (Z06-17);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-17 out of RS-20 and placing same in and establishing same as PDR 8.000; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13365

Subject: Plan Amendment - 5601 Fayetteville Road (A06-17) – Applicant Deborah H. Long and Ronald Kumin

City/County Planning Director Frank Duke noted the applicant has requested this plan amendment as being justified based on the recent widening of Fayetteville Road with the associated commercial property directly across Fayetteville Road from the site. He noted the staff is recommending approval.

Mayor Bell opened the public hearing.

Dan Jewell, representing the applicant, spoke in support of the request.

No one spoke in opposition to this item. Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments on the 5601 Fayetteville Road (A06-17) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Low Density Residential (4 DU/Ac. or less) to Office was approved at 9:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9422

Staff Recommendation: Approval, based on being justified and meeting the four criteria for plan amendments. If this request is approved, a subsequent plan amendment should be initiated for the parcel to the south which is not suitable for residential uses.

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Planning Commission Recommendation: Approval, 13-0, based on closer examination of the uses at the intersection.

Subject: Historic Landmark Designations - Plyler-Raba House (LD06-02), Former Palms Restaurant (LD06-03), Erwin Square Mill Building (LD06-04) and Grey Building (LD06-05)

City/County Planning Director Frank Duke stated these structures have been reviewed by both staff and the Historic Preservation Commission and they are recommending approval. He also stated the designation by the city for these properties as historic landmarks will decrease the tax valuable evaluation of the properties by \$3.2 million.

Mayor Bell opened the public hearing.

No one spoke in support or in opposition to this item. Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Catotti to receive public comments on proposed Historic Landmark designations; and

To adopt Ordinances designating the properties described below as Historic Landmarks: Plyler-Raba House, 1415 North Gregson Street (LD06-02); Former Palms Restaurant Building, 303-305 East Chapel Hill Street (LD06-03); Erwin Square Mill Building, 2024 West Main Street and 707-731 Ninth Street (LD06-04); Grey Building, 2020 West Main Street (LD06-05) was approved at 9:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13366; 13367; 13368; 13369

Subject: Historic Landmark Designation – Woodall House (LD06-01)

To adopt an Ordinance designating the Woodall House located at 910 North Mangum Street as a Historic Landmark.

City/County Planning Director Frank Duke stated the recommendation from both staff and the Historic Preservation Commission is denial based on inappropriate alterations to the property which no longer has the historic character they would warrant a historic landmark designation.

Mayor Bell opened the public hearing.

No one spoke in support or in opposition to this item. Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Catotti to receive public comments on proposed Historic Landmark designation; and

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To adopt an Ordinance designating the Woodall House, 910 North Mangum Street (LD06-01) as a Historic Landmark **FAILED** at 9:33 p.m. by the following vote: Ayes: None. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Planning Department: Denial, based on inappropriate alterations to the house and loss of architectural integrity.

Historic Preservation Commission: Denial, 6-0, based on not meeting one of the criteria for designating a Historic Landmark.

Subject: Voluntary Annexation Petition Received by December 1, 2005 – Fayetteville Road Assemblage

Assistant City Manager Julie Brenman stated this voluntary annexation would provide a net positive cash flow to the city.

FY 2006-11 – Fayetteville Road Assemblage

Mayor Bell opened the public hearing.

No one spoke in support or in opposition to this item. Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments concerning the annexation of the Voluntary Annexation Area (Fayetteville Road Assemblage);

To adopt “An Ordinance Annexing to the City of Durham” the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58 effective from and after June 30, 2007; and

To authorize the City Manager to enter into a half-base contract with the Parkwood Volunteer Fire Department was approved at 9:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13357

[ITEM PULLED FROM THE CONSENT AGENDA]

Subject: 2007 Legislative Program Outline

To receive a report from the Legislative Committee; and

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To approve the 2007 Legislative Program Outline.

City Attorney Blinder informed the Council that the drug stem proposal was a part of the legislative program outline [general law item #8]. Also, City Attorney Blinder stated the prepared food tax is included as proposed by the county along with the increase funding from the general assembly to meet resource needs of the Durham County court system and support of the request of Durham County to raise the required age of school attendance from 16 to 17 in school year 2008-2009 and 18 in school year 2010-2011.

Sheryl Smith spoke in support of Victoria Peterson's program and the second chance program.

Victoria Peterson spoke on the youth in the community being involved in criminal activity. She stated many of the young black men in the community have not graduated from school and have no vocational training or job skills. Ms. Peterson asked the City Council to ask the Durham legislative delegation to introduce a bill to use some of the monies that the court generates to come back into the community for rehabilitation.

Mayor Bell stated whenever the City Council meets with the Durham delegation to present the legislative package, he will allow Ms. Peterson to speak to raise her questions during that meeting.

Council Member Stith stated he would be voting no on Items 1; 6; and 8 listed under Section III (Other) and asked that this be reflected in the minutes.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive a report from the Legislative Committee; and

To approve the 2007 Legislative Program Outline was approved at 9:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None.

Note: Council Member Stith voted no on Items 1; 6; and 8 listed under Section III (Other).

Revised December 14, 2006

2007 LEGISLATIVE PROGRAM OUTLINE

I. CHARTER AMENDMENTS/LOCAL BILLS

1. Reduce to six months the current one-year period before the City may do the following to a boarded-up and closed residential dwelling: (a) if the cost of repair is equal to or less than 50% of the value of the dwelling, then require the repair or demolition of the dwelling; or (b) if the cost of repair exceeds 50% of the value of the dwelling, then

require the demolition of the dwelling – from Ms. Catotti and Neighborhood Improvement Services Department.

2. Redefine a “chronic violator” of the City’s refuse and debris ordinance to be a person against whom remedial action has been taken two or more times in the preceding calendar year, rather than three or more times - from Neighborhood Improvement Services Department.
3. Add Durham to the list of municipalities exempted from the 10 percent area cap for satellite annexations – from City Manager.

II. GENERAL LAW

1. Authorize municipalities to enact ordinances prohibiting discrimination in employment, housing and public accommodations, including necessary enforcement provisions – prior year’s request from Human Relations Commission; no request this year but added by Ms. Cole-McFadden.
2. (Authorize municipalities to require property owners to register residential rental property with local government prior to renting the property – from Ms. Catotti and Neighborhood Improvement Services Department.)
3. (Require residential property constructed prior to 1978 to be inspected for lead as part of a pre-sale housing inspection, with the results of the inspection furnished to the buyer, seller and tenants – from Ms. Catotti and Neighborhood Improvement Services Department.)
4. Authorize municipalities to pass onto the landlord-owner the costs for the emergency relocation of low or moderate-income tenants living in a dilapidated and dangerous structure - from Neighborhood Improvement Services Department.
5. Amend G.S.66-10 to include copper in the list of items for which scrap dealers shall keep records of purchases – from Mr. Brown.
6. Change the name of the Firemen’s Relief Fund to Firefighter’s Relief Fund – from Ms. Cole-McFadden.
7. Authorize municipalities to regulate smoking in restaurants located within the municipality – from Mr. Clement.
8. Adopt a statewide ban on the sale of “rose stems” and similar drug paraphernalia items, particularly when sold in convenience stores that sell alcoholic beverages – from Mr. Clement

III. OTHER

1. Resolution in support of efforts by the North Carolina League of Municipalities to obtain legislation to provide a menu of local option dedicated revenue sources to fund local infrastructure needs such as transportation – from Ms. Catotti **Noes: Council Member Stith.**
2. Resolution in support of efforts by the North Carolina League of Municipalities to obtain legislation to provide municipalities with additional authority to regulate non-residential dilapidated structures – from Ms. Catotti and Neighborhood Improvement Services Department.

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3. (Resolution in support of efforts by the North Carolina Conference of District Attorneys) to eliminate the statutory requirement in G.S.15A-1340.16(d)(2a) to show specific intent to commit a crime “for the benefit of or at the direction of a criminal street gang” as an aggravating factor to justify a higher sentence on a person convicted of a crime – from Mr. Stith).
4. (Resolution in support of eliminating or significantly increasing the amount of bail bonds for repeat or violent offenders under G.S.15A-534 and 535 – from Mr. Stith.)
5. Resolution in support of the request of Durham County for increased funding from the General Assembly to meet the resource needs of the Durham County court system – from Ms. Catotti.
6. Resolution in support of the request of Durham County for impact fees/adequate public facilities ordinance authority for schools – from Ms. Catotti. **Noes: Council Member Stith.**
7. Resolution in support of the request of Durham County to raise the required age of school attendance from 16 to 17 in school year 2008-2009 and 18 in school year 2010-2011 – from Ms. Catotti.
8. Resolution in support of the request of Durham County for a one percent prepared food tax to support a broad array of cultural funding and further implementation of the Durham Cultural Master Plan – from Ms. Catotti. **Noes: Council Member Stith.**

At this time, City Manager Baker informed the Council that he received a letter from the Department of Housing and Urban Development informing that the complaint filed by Vincent Brown & Hairston Enterprises regarding Section 3 Violation [Eastway Village] has been dismissed. He referenced that Mr. Brown had 15 days to appeal the decision by HUD.

There being no further business to come before the City Council, the meeting was adjourned at 9:48 p.m.

D. Ann Gray, City Clerk

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